

REMARKS

I. OVERVIEW

Claims 1, 3-19, 21-65, and 67-102 will be pending in the present application upon entry of this amendment. Claims 1, 19, and 63 have been amended. Claims 2, 20, and 66 have been canceled without prejudice. Claims 78-102 have been added. The issues raised by the Examiner in the Non-Final Office Action of July 6, 2007 (*Office Action*) are as follows:

- The specification stands objected to due to informalities; and
- Claims 1, 3-19, 21-65, and 67-77 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2002/0106998 (*Presley*) in view of U.S. Patent Application Publication No. 2004/0034723 (*Giroli*) and further in view of U.S. Patent No. 6,819,669 (*Rooney*).

In response, Applicant respectfully traverses the outstanding objections and rejections and requests reconsideration and withdrawal in light of the amendments and remarks presented herein.

II. AMENDMENTS TO THE SPECIFICATION

Paragraph [0053] of specification has been amended to replace reference number 501 with reference number 502 with respect to the signaling engine of shown in Figure 5. No new matter has been added. Moreover, Applicant believes that the objection of record with respect to the specification has now been overcome.

III. AMENDMENTS TO THE CLAIMS

Claim 1, 19, and 63 have been amended to recite features originally presented in claims 2, 20, and 66, respectively. No new matter has been added.

Claims 78-102 have been added. No new matter has been presented with new claims 78-102, as the recited language finds ample support throughout the Specification as originally filed. *E.g., Specification*, at ¶¶ [0013]-[0025], [0027], and [0040]-[0057].

IV. CLAIM REJECTIONS UNDER 35 U.S.C. § 103(A)

Claims 1, 3-19, 21-65, and 67-77 stand rejected under 35 U.S.C. § 103(a) over different combinations of *Presley*, *Giroti*, and *Rooney*. Applicant respectfully traverses for the reasons stated below.

It is well settled that “[t]he examiner bears the initial burden of factually supporting any *prima facie* case of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP § 2142. To make a *prima facie* case of obviousness, the Examiner must determine the “scope and content of the prior art,” ascertain the “differences between the prior art and the claims at issue,” determine “the level of ordinary skill in the pertinent art,” and evaluate evidence of secondary considerations. *Graham v. John Deere*, 383 U.S. 1, 17, (1966); *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. ____ (2007); *see also* M.P.E.P. § 2141. When determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. M.P.E.P. § 2141.02(I).

The Supreme Court in *KSR* stated that it is “important [for an examiner] to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *KSR Int’l Co. v. Teleflex, Inc.*, No. 04-1350, slip op. at 14 (U.S. April 30, 2007). Indeed, the Court indicated that there should be an “explicit” analysis regarding “whether there was an *apparent reason* to combine the known elements *in the fashion claimed* by the patent at issue.” *Id.* (emphasis added). Further, the Court did not totally reject the use of “teaching, suggestion, or motivation” test as a factor in the obviousness analysis. *Id.* at 14-15.

A. Non-Analogous Art

Applicant respectfully asserts that *Presley*, *Giroti*, and *Rooney* are non-analogous art, and that a combination of these references is improper. The present application describes a subscription system for rich media information accessible to mobile devices. *E.g.*, *Specification*, at ¶¶ [0013]-[0016]. For example, the application describes “[a]n enhanced subscription server [that] maintains subscription information for each subscribing user and, using this information, generates a subscriber-specific stream of data to be transmitted to the user/subscriber. The subscriber’s mobile device receives this stream of data that includes the data available to populate the different channels to which the user has subscribed.” *Id.* at ¶ [0013]. Moreover, “[t]he user’s mobile device activates an interactive multimedia runtime container that may run a channel application corresponding to the visual experience of the particular channel. The channel data received in the data stream is then used to populate the information for the channel application. As a result, the user is able to view an interactive, rich media presentation of the information on the subscribed-to channel.” *Id.* at ¶ [0014].

Meanwhile, *Presley* describes a teleconferencing system designed to allow several transceivers to communicate over a wireless protocol. *Presley*, at Abstract. *Giroti*’s teleconferencing appliance has multiple ports that permit different types of devices to communicate with each other. *Giroti*, at Abstract. *Rooney*, on the other hand, describes a communication system that overcomes a “peak load” problem that arises from a very specific situation when a single sender expects responses from a plurality of receivers at approximately the same time. *Rooney*, at Abstract. None of these references describes or even alludes to a subscription system such as the one described in the present application.

Therefore, Applicant believes that *Presley*, *Giroti*, and *Rooney* are non-analogous art because their general scope is outside the pertinent field of endeavor of the present invention, and because the subject matter disclosed is irrelevant to the particular problem with which the present inventor is involved. *State Contracting & Eng’g Corp. v. Condotta America, Inc.*, 346 F.3d 1057, 1069 (Fed. Cir. 2003), *cited in* M.P.E.P. § 2141.01. Accordingly, Applicant respectfully asserts that the combination of these references is improper.

B. No Apparent Reason to Combine

Applicant respectfully asserts there is no reason why a person of ordinary skill in the art would combine *Presley* or *Giroti* with *Rooney*, and therefore the combination of these references is improper. As noted above, both *Presley* and *Giroti* are concerned with teleconferencing systems. *Presley*, at Abstract; *Giroti*, at Abstract. Meanwhile, *Rooney* is restricted to a method of solving the very peculiar problem that occurs when a large number of viewers returns a large number of responses during an interactive television or radio broadcast in a very short period of time. *Rooney*, at p. 2, Ins. 8-23. The problem solved by *Rooney* is entirely absent from *Presley* and *Giroti*. Therefore, Applicant respectfully asserts that there is no apparent reason why a person of ordinary skill in the art would be inclined to incorporate *Rooney*'s method into *Presley* or *Giroti*.

C. Lack of All Claimed Elements**1. Claims 1 and 3-18**

Independent claim 1 recites: “***a subscription server in communication with said plurality of mobile units.***” The Examiner has relied upon *Presley*'s “central server” as meeting the claimed subscription server. *Office Action*, at p. 2. Applicant notes that *Presley* describes its central server as a server that “facilitates the connection of transceivers (e.g., by maintaining a directory) to send out software upgrades, to record rich media, and in some cases to act as an application service provider for some or all of the functionality available to the transceivers.” *Presley*, at ¶ [0029]. However, there is no indication in *Presley* that its central server is a subscription server. In fact, *Presley* is concerned with a conferencing system, and not with the processing of subscriber-specific data for mobile devices. *Id.* at Abstract. The Examiner does not rely upon *Giroti* or *Rooney* as providing this claimed element, and Applicant asserts that these references do not do so.

Independent claim 1, as amended, also recites: “***one interactive multimedia runtime container (iMRC), operable on a display of said plurality of mobile units, for said each one of said plurality of channels subscribed to; and a channel application, operable within said one iMRC, for presentation of one of said plurality of channels subscribed to, wherein said***

channel application presentation uses said channel data from said data feed to display one of said plurality of channels subscribed to.” Applicant respectfully notes that the passages of *Presley* and *Giroti* cited by the Examiner do not disclose one of a plurality of channels subscribed to, much less a channel application operable within an interactive multimedia runtime container that uses channel data to display one of a plurality of channels subscribed to, as now recited in claim 1. The Examiner does not rely upon *Rooney* as providing this claimed element, and Applicant asserts that this reference does not do so.

Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, does not teach or suggest every element of claim 1. Claims 3-18 depend from claim 1 and thus are patentable for at least the same reasons.

2. Claims 19 and 21-33

Independent claim 19, as amended, recites: “*a channel data storage on said mobile device for each one of said plurality of rich media channels for storing current channel data associated with said each one of said plurality of rich media channels.*” The Examiner relies solely upon *Presley* as meeting this claimed element. However, the passages of *Presley* cited by the Examiner only generically disclose a memory (e.g., RAM, ROM, CD-ROM, tape drive, etc.). *Presley*, ¶ [0019]. Applicant has been unable to find any passage of *Presley*, *Giroti*, or *Rooney*, that teaches or suggests a channel data storage on a mobile device for each rich media channel for storing current channel data associated with each rich media channel, as recited in claim 19.

Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, does not teach or suggest every element of claim 19. Claims 21-33 depend from claim 19 and thus are patentable for at least the same reasons.

3. Claims 34-47

Independent claim 34 recites: “*compiling a stream of data at a dynamic information subscription server, wherein said stream of data comprises channel data related to ones of said plurality of DMIC subscribed to by a user of said mobile device.*” The Examiner relies solely

upon *Giroti* as meeting this claimed element. In response, Applicant respectfully asserts that *Giroti* only seems to describe a conferencing appliance that stores preferences during a pre-registration process. *Giroti*, at ¶ [0097]. Based upon those preferences, *Giroti*'s appliance reformats of data to a particular media form before delivery. *Id.* However, simply reformatting data into different media forms is not the same as compiling a stream of data having channel data related to dynamic multimedia information channels subscribed to by a user of a mobile device. Applicant has been unable to find any passage of *Presley*, *Giroti*, or *Rooney*, that teaches or suggests the features recited in claim 34.

Independent claim 34 also recites: “***running a channel program within an interactive multimedia runtime (iMR) on a display of said mobile device, wherein said channel program corresponds to each of said plurality of DMIC.***” The Examiner again relies solely upon *Giroti* as meeting this claimed element. However, the passage of *Giroti* cited by the Examiner only describes compressing, resizing, and reformatting a file before transmission in order to conserve bandwidth. *Giroti*, at ¶ [0110]. This is not the same as running a channel program within an interactive multimedia runtime (iMR) on a display of a mobile device, wherein the channel program corresponds to each of the plurality of DMIC. Applicant has been unable to find any passage of *Presley*, *Giroti*, or *Rooney*, that teaches or suggests the features recited in claim 34.

Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, does not teach or suggest every element of claim 34. Claims 35-47 depend from claim 34 and thus are patentable for at least the same reasons.

4. Claims 48-62

Independent claim 48 recites: “***interacting with a user interface of said mobile unit to subscribe to one or more channels having interactive multimedia content.***” The Examiner relies solely upon *Presley* as meeting this claimed element. However, the passage of *Presley* cited by the Examiner does not describe subscribing to one or more channels having interactive multimedia content, much less interacting with a user interface of a mobile unit to subscribe to such channels. *Presley*, at ¶ [0037]. Applicant has been unable to find any passage of *Presley*, *Giroti*, or *Rooney*, that teaches or suggests the features recited in claim 48.

Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, does not teach or suggest every element of claim 48. Claims 49-62 depend from claim 48 and thus are patentable for at least the same reasons.

5. Claims 63-65 and 67-76

Claim 63 as amended recites: “*means for receiving said content updates directly from an enhanced subscription server when changes to one of said plurality of rich media channels is detected; and means for receiving said content updates responsive to a request from said mobile device, wherein said request is issued according to one of: an update available signal received from said enhanced subscription server; and passing of a predetermined period of time.*” The Examiner has cited to multiple paragraphs ([0003], [0077], [0078], [0097], [0099], [0102], [0106], [0107]) of *Giroti* as teaching or suggesting these claimed features. *Office Action*, at p. 20 (claim 42). However, these passages do not describe receiving content updates from an enhanced subscription server when changes to a rich media channel are detected. Applicant has been unable to find any passage of *Presley*, *Giroti*, or *Rooney*, that teaches or suggests the features recited in claim 63.

Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, does not teach or suggest every element of claim 63. Claims 64, 65, and 67-76 depend from claim 63 and thus are patentable for at least the same reasons.

V. PATENTABILITY OF CLAIMS 78-102 IN LIGHT OF THE REFERENCES OF RECORD

Applicant respectfully asserts that claims 78-102 are patentable over the references of record, at least for the reasons asserted below.

A. Non-Analogous Art

Applicant respectfully reasserts the same arguments submitted above with respect to claims 1-77 that *Presley*, *Giroti*, and *Rooney* are non-analogous art. Accordingly, Applicant respectfully asserts that the combination of these references is improper.

B. No Apparent Reason to Combine

Applicant respectfully reasserts the same arguments submitted above with respect to claims 1-77 that there is no reason why a person of ordinary skill in the art would combine *Presley* or *Giroti* with *Rooney*. Accordingly, Applicant respectfully asserts that the combination of these references is improper.

C. Lack of All Claimed Elements

1. Claims 78-83

Independent claim 78 recites: “*an enhanced subscription server configured to retrieve information from at least one of a plurality of Internet sources and compile at least one subscriber-specific data stream for a mobile device based upon channel subscription information associated with the mobile device, the channel subscription information comprising a channel selection.*” The Examiner has previously relied upon *Presley*’s “central server” as meeting the subscription server of claim 1. *Office Action*, at p. 2. Applicant notes that *Presley* describes its central server as a server that “facilitates the connection of transceivers (e.g., by maintaining a directory) to send out software upgrades, to record rich media, and in some cases to act as an application service provider for some or all of the functionality available to the transceivers.” *Presley*, at ¶ [0029]. However, there is no indication in *Presley* that its central server is configured in a similar way as the enhanced subscription server of claim 78. In fact, *Presley* is concerned with a conferencing system, and not with the processing of subscriber-specific data for mobile devices. *Id.* at Abstract. The Examiner has not previously relied upon *Giroti* or *Rooney* as providing a subscription server, and Applicant asserts that these references do not meet the enhanced subscription server of claim 78. Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, would not render claim 78 unpatentable. Claims 79-83 depend from claim 78 and thus are believed to be patentable for at least the same reasons.

2. Claims 84-89

Independent Claim 84 recites: “*receiving, at an enhanced subscription server, channel subscription information associated with a mobile device, the channel subscription*

information comprising a channel selection.” The Examiner has previously relied upon *Presley*’s “central server” as meeting a “subscription server.” *Office Action*, at p. 2. For at least the same reasons noted above with respect to claim 78, Applicant asserts that there is no indication in *Presley* that its central server receives channel subscription information associated with a mobile device, the channel subscription information comprising a channel selection. Again, *Presley* is concerned with a teleconferencing system, and not with the processing of subscriber-specific data for mobile devices. *Id.* at Abstract. The Examiner has not previously relied upon *Giroti* or *Rooney* as providing a subscription server, and Applicant asserts that these references do not meet the steps of claim 84. Accordingly, a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, would not render claim 84 unpatentable. Claims 85-89 depend from claim 84 and thus are believed to be patentable for at least the same reasons.

3. Claims 90-95

Independent claim 90 recites: “*a mobile device configured to receive at least one subscriber-specific data stream from an enhanced subscription server, the at least one subscriber-specific data stream being compiled by the enhanced subscription server based upon information retrieved from at least one of a plurality of Internet sources and based upon channel subscription information associated with the mobile device, the channel subscription information comprising a channel selection.*” For reasons similar to those presented above, Applicant respectfully asserts that a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, would not render claim 90 unpatentable. Claims 91-95 depend from claim 90 and thus are believed to be patentable for at least the same reasons.

4. Claims 96-102

Independent claim 96 recites: “*transmitting, to an enhanced subscription server, channel subscription information associated with a mobile device, the channel subscription information comprising a channel selection.*” For reasons similar to those presented above, Applicant respectfully asserts that a combination of *Presley*, *Giroti*, and *Rooney*, even if proper, would not render claim 96 unpatentable. Claims 97-102 depend from claim 96 and thus are believed to be patentable for at least the same reasons.

VI. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. M065 from which the undersigned is authorized to draw.

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Respectfully submitted,

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